THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.2682 OF 2006

Dated: 28th August, 2006.

Between :

N. Chandra Sekhar .. . Petitioner

And

1. The National Highway Authority of India,
   Rep. by its General Manager-cum-Project Director,
   Project Implementation Unit, Nellore, Nellore
   District; and 4 others. … Respondents

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ORDER :

The petitioner claims to be the owner and possessor of the land to an extent of Ac.3 ½ cents situated in Sy.No.30/A4G of Konanki village, Martur Mandal, Prakasam District.

In pursuance of a notification issued under Section 3-A of the National Highways Act, 1956, (for short, 'the N.H. Act) the land belonging to the petitioner to an extent of Ac.3 ½ cents was acquired for formation of N.H.5. It is not in dispute that by award dated 12-11-2003 passed by the Revenue Divisional Officer, who is the competent authority under the Act, the petitioner was paid a sum of Rs.3,94,080/- towards compensation. However, the petitioner alleges that since the estimate prepared by the R & B Authorities was not acceptable, she along with two other similarly situated persons made a request for reverification of the value of the land acquired. It is also pleaded that pursuant to the proceedings of the Revenue Divisional Officer dated 27-9-2003, the Deputy Executive Engineer, R & B, Addanki inspected the area and submitted a valuation report dated 28-11-2003 according to which the petitioner is entitled to a total compensation of Rs.6,38,845/-.

However, no further steps have been taken by the respondents in pursuance of the said reverification report.

Though the petitioner does not dispute the fact that a sum of Rs.3,94,080/- as per the award dated 12-11-2003 has already been paid, it is contended that she is entitled to a further sum of

Rs.2,44,765/- as estimated by the Deputy Executive Engineer, R & B. It is alleged that without paying the said amount, the respondents are attempting to demolish the house of the petitioner. Hence, this writ petition seeking a declaration that the action of the respondents in proceeding to demolish the house of the petitioner without effecting the payment of compensation as per the revaluation by the Deputy Executive Engineer, R & B, dated 28-11-2003 as arbitrary and illegal.

I have heard the learned Counsel for both the parties and perused the material on record.

The learned Counsel for the petitioner contended that as a matter of fact two other persons who are also similarly situated were paid the compensation in terms of the revaluation report dated 28-11-2003 submitted by the Deputy Executive Engineer, and therefore the action of the respondents in not extending the said benefit to the petitioner is arbitrary and illegal.

It is to be noted that under Section 3-G of the Act, in case the amount determined by the competent authority is not acceptable to any party, the amount shall on an application by either of the parties to be determined by the Arbitrator to be appointed by the Central Government. Section 3-G also made clear that the provisions of the Arbitration and Conciliation Act, 1956 shall be applied to every such arbitration. Hence, as rightly contended by the learned Counsel for the 1st respondent, the petitioner ought to have sought reference to arbitration as provided under sub-section (5) of Section 3-G of the Act. Except a copy of the revaluation report submitted by the Deputy Executive Engineer, dated 28-11-2003, nothing has been placed before this Court to show that the said report, which was submitted after the award passed under sub-section (5) of Section 3-G of the Act was implemented and the amounts were paid to the other similarly situated persons.

In the circumstances, Writ of Mandamus as prayed for cannot be granted. Instead, I deem it appropriate to dispose of the writ petition

granting liberty to the petitioner to seek a reference to the Arbitrator in terms of sub-section (5) of Section 3-G of the Act. It is also left open to the petitioner to place all the relevant material before the Arbitrator to show that on the basis of the valuation report submitted by the Deputy Executive Engineer, R & B, additional compensation was paid to the other similarly situated persons. If any such request is made by the petitioner within a period of four weeks from today, seeking reference to the arbitration, the same shall be considered and appropriate orders be passed in accordance with law.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 28-8-2006
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